

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

ERIC A. HAGLER,)
)
Plaintiff,)
)
vs.) Case No. 4:05CV2227 HEA
)
EMERSON ELECTRIC CO. et al.,)
)
Defendants.)

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's Motion to Dismiss defendant Home Depot, USA, Inc. with Prejudice and to Remand, [Doc. # 8]. For the reasons set forth below, the Motion is granted.

Plaintiff moves to dismiss Home Depot, USA, Inc., a diverse defendant with prejudice and with costs to plaintiff. Pursuant to Rule 41(b) of the Federal Rules of Civil Procedure, the Court may dismiss an action at plaintiff's instance, and upon such terms and conditions as the court deems proper. Since plaintiff is moving to dismiss with prejudice and with costs assessed to plaintiff, no further conditions are required. In that the remaining parties are no longer diverse, the Court no longer has diversity jurisdiction over this matter.

Accordingly,

IT IS HEREBY ORDERED that plaintiff's Motion to Dismiss defendant

Home Depot, USA, Inc. with Prejudice and to Remand, [Doc. # 8], is granted.

IT IS FURTHER ORDERED that this matter is remanded to the Circuit Court for the City of St. Louis, Missouri.

IT IS FURTHER ORDERED that the Rule 16 Conference set for January 19, 2006 is cancelled.

Dated this 17th day of January, 2006.



HENRY EDWARD AUTREY
UNITED STATES DISTRICT JUDGE